

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

SEAN COLWELL,

Petitioner,

vs.

JIM SALMONSEN,

Respondent.

Cause No. CV 23-17-H-BMM-KLD

ORDER

On April 24, 2023, the Court ordered Petitioner Sean Colwell to show cause why his petition should not be dismissed for failure to exhaust state remedies. (Doc. 8.) Colwell responded that there is no appeal process for parole revocation hearings, and therefore, he has exhausted his state remedies. (Doc. 9.) However, he still may file a state petition for a writ of habeas corpus; his response makes clear that he has not done so. As such, he has not exhausted his state court remedies.

The Court will not determine whether his parole revocation violates federal law, if it all, without having the question first addressed by the Montana courts. *See Rose v. Lundy*, 455 U.S. 509, 520 (1981) (providing “a simple and clear instruction to potential litigants: before you bring any claims to federal court, be sure that you first have taken each one to state court.”). His federal petition will be dismissed without prejudice. He may file a federal habeas petition after he has properly

exhausted his available state remedies. *Slack v. McDaniel*, 529 U.S. 473, 485-86 (2000).

Based on the foregoing, the Court enters the following:

ORDER

1. Colwell's petition is DISMISSED without prejudice.
2. The Clerk of Court is directed to close this matter. All pending motions are moot.

DATED this 10th day of May, 2023.



Brian Morris, Chief District Judge
United States District Court